

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 90 of the Commission's Rules)	WP Docket No. 16-261
To Improve Access to Private Land Mobile)	
Radio Spectrum)	
To: The Commission		

**REPLY COMMENTS OF
AMERICAN ASSOCIATION OF STATE
HIGHWAY & TRANSPORTATION OFFICIALS**

The American Association of State Highway Transportation Officials, Inc. ("AASHTO") pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, hereby respectfully submits their comments in response to the Public Notice of September 26th, 2016 in the above-captioned proceeding.

The American Association of State Highway & Transportation Officials

AASHTO, formed in 1914 as an association with 27 members, brings together each state and territory's bureau, department, or administration agency responsible for the building and maintenance of roads and highways. Since the association's founding its membership has increased to include all 50 states, the District of Columbia and the Commonwealth of Puerto Rico providing a national and international voice for all five modes of transportation, law enforcement, fire and emergency medical services, local, county, tribal, and state governments. AASHTO is designated by the Federal Communications Commission as the only agency authorized to recommend or approve applications for radio frequencies in the Public

Safety Highway Maintenance Pool. This authorization was subsequently extended to include all frequencies assigned to the Public Safety Frequency Pool and the SMR 800 MHz pool being vacated by Sprint-Nextel.

AASHTO is internationally recognized for its pioneering work in providing for the safety of the millions of travelers using highways, trains, ferries, airports and public transit systems daily. AASHTO develops recognized standards for the design and operation of roads, rail systems, ports and waterways, airport facilities and transit systems with the sole intent of protecting the traveling public. In its role of representing state departments of transportation, AASHTO directly supports and integrates with the police, fire and medical services operated by its members for the protection of life, health and property of those using the nation's multiple transportation systems. AASHTO is a founding member of the National Public Safety Telecommunications Council ("NPSTC") and an initial member of the Public Safety Spectrum Trust Corporation ("PSST"), holders of the nationwide public safety broadband network license. AASHTO has been selected to serve as a member of the Emergency Response Interoperability Center's Public Safety Advisory Committee ("ERIC PSAC"). AASHTO works with the other Frequency Advisory Committees ("FACs") on the Land Mobile Communications Council ("LMCC") and the Public Safety Communications Council ("PSCC") in setting policy and procedures for coordinating and assigning radio frequencies under Part 90 of the Commission's Rules.

THE EB/GB Window Needs to be Clearly Defined

Among the proposals addressed by commenters is a limited, six-month priority window for incumbent 800 MHz licensees to apply for new Expansion Band (EB, 860-861 MHz) or Guard Band (GB, 861-862 MHz) spectrum. AASHTO voted in the LMCC to oppose this, not on

its merits, as AASHTO members are incumbent in this spectrum in many of the market areas to be released. Rather, AASHTO notes that the proposed language referring to incumbents “in the market” is insufficiently defined, and was unable to find other LMCC member agreement.

AASHTO therefore proposes two clarifications:

- 1) The spectral holdings to qualify incumbency should be as in the EWA Comments: “all EB and GB spectrum would be available, first, for all 800 MHz incumbents”¹, by which we mean any licensee with base stations between 851.0 and 862.0 MHz, but also including those few PLMR licensees in border areas remaining in the 862-869 MHz band. AASHTO also agrees with the majority of Commenters that the window should be a minimum of six month’s duration. More to the point for its members, with typically long budgetary cycles, the window should be announced as far in advance of the pre-coordination date as possible. It would also be beneficial to have several windows for different geographic areas, with at least a 30 day separation to relieve pressure on filers, rather than releasing all remaining rebanded NPSPAC regions at once.
 - 2) AASHTO proposes to define “in the market”, by borrowing language from §90.623, as a 64 kilometer maximum distance from any proposed base station to a licensed or pending one under the same Federal Registration Number. Mobile areas of many licenses in this band are exaggerated, and by their secondary nature should not be considered.
- These two additions should clearly define who is eligible for the window proposed in the NPRM.

Intercategory Sharing in the EB needs to be Allowed During the Window

EWA also clarified its position on Inter-Category sharing during the priority window:

¹ EWA Comments at 4-5

“EWA believes the LMCC EB/GB Petition also implicitly sought a lifting of the now two decades old freeze on 800 MHz inter-category sharing in the EB/GB during this period. To the extent that was unstated, it has been clarified in LMCC Comments in this proceeding and the Alliance supports that position fully.”²

It goes on to argue:

“EWA further recommends that inter-category sharing between B/ILT and SMR licensees in the interleaved bands (809/854-815/860 MHz) be permitted during this period as well.”

Intercategory sharing in the interleaved band during this window for applicants below 860 MHz may or may not have been intended by EWA, but is opposed by AASHTO as it would compromise the Vacated Spectrum policy in place for years favoring Public Safety, and in any case is beyond the scope of this NPRM. AASHTO finds no issue in the Guard Band, as these are all general category channels and may be applied for by any applicant. However, in the Expansion Band, only Public Safety now has no channels of its own, excepting those entities which elected to remain in the band throughout rebanding. Those entities are clearly deserving of the opportunity this window presents, since they are otherwise constrained by a waiver process on SMR or B/ILT channels, and AASHTO therefore argues that

² Ibid. at 5

- 1) Intercategory sharing should be relaxed only for Public Safety entities applying in the Expansion Band, and
- 2) That this sharing be applicable only during the window.

Respectfully submitted,

/s

Peter Moncure

Contractor for AASHTO in Spectrum Matters

PMoncure@RadioSoft.com

194 Professional Park Drive

Clarkesville, GA 30523